

SENATE BILL REPORT

SSB 6012

As Passed Senate, March 19, 2003

Title: An act relating to shoreline management.

Brief Description: Codifying shoreline rules.

Sponsors: Senate Committee on Land Use & Planning (originally sponsored by Senators Mulliken, T. Sheldon and Morton).

Brief History:

Committee Activity: Land Use & Planning: 3/3/03 [DPS, DNP].

Passed Senate: 3/19/03, 31-18.

SENATE COMMITTEE ON LAND USE & PLANNING

Majority Report: That Substitute Senate Bill No. 6012 be substituted therefor, and the substitute bill do pass.

Signed by Senators Mulliken, Chair; McCaslin, Morton and T. Sheldon.

Minority Report: Do not pass.

Signed by Senator Kline.

Staff: Jennifer Arnold (786-7471)

Background: The Department of Ecology has the legislative authority to adopt and implement shoreline management guidelines under the Shoreline Management Act.

In 1995, the Department of Ecology (DOE) was required by the Legislature to conduct a comprehensive update of the shoreline management guidelines. DOE adopted the final rule in 2000 regarding guidelines for local government master programs. In 2002, the Shorelines Hearings Board invalidated the guidelines and remanded the rule to DOE for further rule making, and DOE subsequently appealed the decision to superior court where the matter resulted in a settlement. However, because the court did not reinstate the prior existing guidelines, there are currently no guidelines for local government shoreline management.

DOE has proposed new shoreline management guidelines as a result of the court settlement. These proposed guidelines, however, have been a source of contention between the parties to the settlement and those that did not agree to the settlement terms, as well as those parties that did not participate in the court case. Further, in the absence of guidelines, local governments have been more reluctant to update their master programs due to the lack of predictability as to whether such actions will be approved by DOE and upheld by a growth management hearings board.

Summary of Bill: The shoreline management guidelines in existence prior to the 1995 legislative amendments are codified. DOE no longer has legislative authority to develop and

adopt guidelines regarding the regulation of uses of shorelines and shorelines of statewide significance. Local governments regulate shoreline use activities based on statutory guidelines, not guidelines developed by DOE.

There are no statutory time line requirements for when shoreline master programs must be completed and amended. Shoreline master program updates are made at the local government's discretion based on the guidelines and policies contained in the Shoreline Management Act.

Agricultural activities for the purpose of local government use regulations are defined as provided in RCW 90.58.065.

The *Forest & Fish Report* and the Forest Practices Act and rules govern the development of shorelines master programs in regards to commercial forest uses.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill does not provide an unfunded mandate and allows cities to update their shoreline master programs as they see appropriate, based on their particular circumstances. A rule is provided in the statute, when otherwise there is no guidance, which gives shoreline jurisdictions more certainty in planning. The bill removes the Department of Ecology's power to review and update every five years, which requirement had the potential to result in a continuing cycle of disputes and litigation. There is a need for this issue to be in the legislative arena in order to have valuable discussion on how best to go forward.

Testimony Against: There are concerns that the pre-1995 guidelines adopted in this bill did not support the integration of the Shoreline Management Act and the Growth Management Act and do not use the best science technology. The guidelines codified in this bill were repealed. This issue could be better resolved by proposals from the parties to the settlement case for new guidelines and the Governor's proposed bill, SB 5551. The bill takes away some flexibility by codifying the guidelines; it will be very difficult to make changes and move forward.

Testified: Dave Williams, Association of Washington Cities (pro); Ted Sturdevant, Department of Ecology (concerns); Genesee Adkins, 1,000 Friends of Washington (con); Scott Merriman, Washington Association of Counties (concerns).

House Amendment(s): All provisions of the underlying substitute bill are removed. A staggered schedule, running from 2005 to 2014 and every seven years after the initial deadline, is established for the development, amendment, and review of shoreline master programs by local governments.

State funding must be provided to local governments at least two years prior to the deadline. Local governments that do not receive state funding may postpone the deadline until the following biennium, at which time they must be given first priority for funding and the deadline

for their update will be two years after receiving the funds. With the exception of counties and cities scheduled to complete their updates in either 2005 or 2009, updates must be completed within two years after DOE approves the grant.

Local governments must develop or amend their shoreline master programs by December 1, 2014, at the latest to comply with the new DOE guidelines, regardless of available state funding. Local governments may update their master programs earlier than the timelines provided and are eligible for grants, if funding is available. The current statutory provision prohibiting DOE from making grants to local governments in excess of the recipient's contribution is removed.

DOE is no longer required to review the shoreline guidelines at least once every five years. DOE may not adopt amendments to the guidelines more than once per year and these amendments must be limited to technical or procedural issues related to the review of master programs or issues related to guideline compliance with state statutes.